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U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

<u>Ex parte</u> MRUDULA KANURI and GOPAL KRISHNA

Appeal No. 2005-2524
Application No. 09/519,848[1]

ON BRIEF

Before JERRY SMITH, KRASS and SAADAT, <u>Administrative Patent Judges</u>.
SAADAT, <u>Administrative Patent Judge</u>.

DECISION ON APPEAL

This is a decision on appeal from the Examiner's final rejection of claims 1, 2 and 8-11. Claims 3-7 and 12-13 have been objected to as being dependent upon a rejected base claim, but indicated as allowable if rewritten in independent form including all of the limitations of the base claim.

We reverse.

BACKGROUND

Appellants' invention is directed to an arrangement that enables a network switch to selectively delete address entries

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[1] Application for patent filed March 6, 2000.

from its network switch address table. According to Appellants,

a network switch selectively deletes an address entry from a

network switch address table based on a determined application

state of a data flow from a received data packet (specification,

page 2). An understanding of the invention can be derived from a

reading of exemplary independent claim 1, which is reproduced as

follows:

1. A method in an integrated network switch, the method
comprising:

determining an application state for a prescribed network
application from a received layer 2 data packet; and

selectively deleting an address entry from a network switch
address table that specifies at least one of a source of the
received layer 2 data packet and a destination of the layer 2
data packet, based on the determined application state.

The Examiner relies on the following references:

Perlman et al. (Perlman)	5,128,926	Jul. 7, 1992
Hoffman et al. (Hoffman)	6,094,435	Jul. 25, 2000 (filed Jun. 30, 1997)
Kadambi et al. (Kadambi)	6,104,696	Aug. 15, 2000 (filed Jun. 30, 1999)

Claims 1 and 10 stand rejected under 35 U.S.C. § 102(e) as

being anticipated by Hoffman.

Claim 2 stands rejected under 35 U.S.C. § 103(a) as being

unpatentable over Hoffman and Perlman.

Claims 8, 9 and 11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hoffman, Perlman and Kadambi.

Rather than reiterate the opposing arguments, reference is made to the briefs and answer for the respective positions of Appellants and the Examiner. Only those arguments actually made by Appellants have been considered in this decision. Arguments which Appellants could have made but chose not to make in the briefs have not been considered (37 CFR § 41.37(c)(1)(vii)).

OPINION

With respect to the 35 U.S.C. § 102 rejection of claims 1 and 10, Appellants argue that Hoffman does not teach or suggest determining an application state for a prescribed network application from a received layer 2 data packet (brief, page 8). Appellants point out that Hoffman actually updates the information for each entry every time an entry is matched with those in a specific aging interval (id.). Appellants also argue that the Examiner's characterization of Hoffman's determining the state of a network node as the claimed determining application state of the prescribed network application is erroneous since Hoffman only identifies the presence of the network node, not an application state (reply brief, page 2).

In response, the Examiner argues by stating that Hoffman

(col. 16, lines 44-51) discloses that source aging information,

which is updated every time the layer 2 source address is

matched, indicates whether the source is active (answer, page 4).

The Examiner further reasons that:

> It is clear from the teachings of Hoffman that when the
> layer 2 source address is matched, the state of the source
> (application) is active and therefore the application state
> can be determined from layer 2 entries.
> (Id.)

In other words, the Examiner takes the position that if a data

packet is received, the application state is active while not

receiving a packet indicates an inactive state (answer, page 5).

A rejection for anticipation requires that the four corners

of a single prior art document describe every element of the

claimed invention, either expressly or inherently, such that a

person of ordinary skill in the art could practice the invention

without undue experimentation. See Atlas Powder Co. v. Ireco

Inc., 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1947 (Fed. Cir. 1999);

In re Paulsen, 30 F.3d 1475, 1478-79, 31 USPQ2d 1671, 1673 (Fed.

Cir. 1994).

Hoffman relates to packet forwarding within a multi-layer

network element for forwarding received packets to one or more

appropriate output ports (col. 5, lines 2-5). In particular, the

portions of the reference relied on by the Examiner disclose

source information aging as a part of information contained in

each entry (col. 16, lines 43-45). Although Hoffmann teaches

that source aging information indicates whether the source is

active or not (col. 16, lines 44 & 45), we find ourselves in

agreement with Appellants' assertion that the source information

aging merely refers to the "source network node" (reply brief,

page 3). What a reference teaches is a question of fact. In re

Baird, 16 F.3d 380, 382, 29 USPQ2d 1550, 1552 (Fed. Cir. 1994)

(citing In re Beattie, 974 F.2d 1309, 1311, 24 USPQ2d 1040, 1041

(Fed. Cir. 1992)). Here the Examiner characterizes the "source"

as an application which ignores the teachings of Hoffman as to

how information packets are routed (col. 2, lines 5-19). As

pointed out by Appellants (reply brief, pages 2-5), this

interpretation of the source as the claimed application state

results in inconsistent meanings attributed to the source which

is actually a port or an end station functioning as source,

destination or any point in between (col. 2, lines 27-44).

    In view of the discussion above, we find that the claimed

"application state" is not taught or suggested by Hoffman. Claim

10 includes similar limitations related to determining the

application state which, as discussed above with respect to claim

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1, is absent in Hoffman. Accordingly, since Hoffman does not teach all the claimed limitations, the Examiner has failed to meet the burden of providing a _prima facie_ case of anticipation and the 35 U.S.C. § 102 rejection of claims 1 and 10 over Hoffman cannot be sustained.

Turning now to the 35 U.S.C. § 103 rejection of claim 2, 8, 9 and 11, we note that the Examiner further relies on Perlman for teaching communication along a number of links having link state information and on Kadambi for disclosing Ethernet Port Interface Controller (EPIC) having an age timer (answer, page 3). However, similar to Hoffman, the link state information of Perlman relates to the port state instead of the application state (col. 1, lines 20-30) while Kadambi also provides the aging timer only for the port, not for an application from a data packet (col. 22, lines 43-46 and col. 23, lines 1-2). Therefore, since the Examiner has not pointed to any disclosure in Perlman or Kadambi that relates to the determining the application state, as recited in claim 1, the deficiencies of Hoffman as discussed above with respect to claims 1, 10 has not been overcome. Accordingly, we do not sustain the 35 U.S.C. § 103 rejection of claim 2 over Hoffman and Perlman and of claims 8, 9 and 11 over Hoffman, Perlman and Kadambi.

<u>CONCLUSION</u>

In view of the foregoing, the decision of the Examiner rejecting claims 1 and 10 under 35 U.S.C. § 102 and rejecting claims 2, 8, 9 and 11 under 35 U.S.C. § 103 is reversed.

<u>REVERSED</u>

JERRY SMITH   )
Administrative Patent Judge   )
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) BOARD OF PATENT
ERROL A. KRASS   )   APPEALS
Administrative Patent Judge   )   AND
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